

**STATE OF CONNECTICUT
DEPARTMENT OF SOCIAL SERVICES
OFFICE OF LEGAL COUNSEL, REGULATIONS, AND ADMINISTRATIVE HEARINGS
55 FARMINGTON AVENUE
HARTFORD, CT 06105**

[REDACTED] 2016
Signature confirmation

Client: [REDACTED]
Request: 791229

NOTICE OF DECISION

PARTY

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

PROCEDURAL BACKGROUND

On [REDACTED] 2016, the Connecticut Dental Health Partnership (“CTDHP”) issued [REDACTED] (the “Appellant”) a notice stating that it had denied a request for prior authorization of orthodontic services through the Medicaid/HUSKY program for [REDACTED] her minor child.

On [REDACTED] 2016, the Appellant filed a request for an administrative hearing with the Office of Legal Counsel, Regulations, and Administrative Hearings (“OLCRAH”) to contest the CTDHP’s action.

On [REDACTED] 2016, the OLCRAH issued a notice to the Appellant scheduling an administrative hearing for [REDACTED] 2016.

On [REDACTED] 2016, in accordance with sections 17b-60, 17b-61 and 4-176e to 4-189, inclusive, of the Connecticut General Statutes, the OLCRAH held an administrative hearing. These individuals participated in the proceeding:

[REDACTED], Appellant
Magdalena Carter, CTDHP’s representative
Vincent Fazzino, D.M.D., CTDHP’s witness (by telephone)
Eva Tar, Hearing Officer

The administrative hearing record closed [REDACTED] 2016.

STATEMENT OF ISSUE

The issue to be decided is whether CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for ██████████

FINDINGS OF FACT

1. ██████████ was born ██████████ 2014. (CTDHP's Exhibit 1: ADA Dental Claim Form, undated)
2. ██████████ has medical coverage through the Medicaid/HUSKY program. (CTDHP's Exhibit 4: *Notice of Action*, ██████████/16)
3. CTDHP is a dental subcontractor for the Medicaid/HUSKY program. (CTDHP's representative's testimony)
4. ██████████ is 4'8" tall. (Appellant's testimony)
5. ██████████ weighs between 85 and 95 pounds. (Appellant's testimony)
6. ██████████ chin protrudes out. (Appellant's testimony)
7. ██████████ has not stopped growing. (Appellant's testimony)
8. ██████████ has used a palate expander since she was nine years old. (Appellant's testimony)
9. For the last two and a half years, ██████████ uses a head gear apparatus at night to push her chin in as it grows. (Appellant's testimony)
10. Family members helped pay for ██████████ palate expanders; the Medicaid program or other insurance did not pay for the treatment. (Appellant's testimony)
11. ██████████ has anxiety about whether her braces will be covered by insurance. (Appellant's testimony)
12. The Appellant is concerned that ██████████ is not chewing her food properly and has lost weight. (Appellant's testimony)
13. ██████████ does not receive treatment or counseling from a psychiatrist or psychologist. (Appellant's testimony)
14. Dr. Desai of Danbury Orthodontics is ██████████ orthodontist (the "treating orthodontist"). (CTDHP's Exhibit 1)(CTDHP's Exhibit 2: *Preliminary Handicapping Malocclusion Assessment Record*, signed ██████████16)
15. On ██████████ 2016, the treating orthodontist scored the severity of ██████████ malocclusion to equal 25 points on a *Preliminary Handicapping Malocclusion*

Assessment Record as part of a request for prior authorization of treatment. (CTDHP's Exhibit 2)

16. The treating orthodontist noted on the [REDACTED] 2016 *Preliminary Handicapping Malocclusion Assessment Record* that [REDACTED] has a class III malocclusion, her #4 tooth is blocked out, and a midline deviation. (CTDHP's Exhibit 2)
17. The treating orthodontist did not identify on the [REDACTED] 2016 *Preliminary Handicapping Malocclusion Assessment Record* the existence of a congenital jaw defect or skeletal issues that would require surgery, if left untreated. (CTDHP's Exhibit 2)
18. A "class III malocclusion" means when the lower first molars are in a forward position to the upper molar cusps. (CTDHP's witness's testimony)
19. A "blocked" tooth is a tooth that is trying to erupt into the mouth. The tooth may be partially erupted and blocked from coming out by crowding by adjacent teeth or completely blocked by being in the bone and not coming out. (CTDHP's witness's testimony)
20. A "midline deviation" is when the two upper front teeth and two lower front teeth do not line up symmetrically. In a sample of the population, there might be a slight deviation; a midline deviation would not be unusual. (CTDHP's witness's testimony)
21. CTDHP received a request for prior authorization of orthodontic treatment for [REDACTED] from the treating orthodontist. (CTDHP's Exhibit 1)
22. Benson Monastersky, D.M.D. (the "first dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 3: *Preliminary Handicapping Malocclusion Assessment Record*, [REDACTED]/16)
23. The first dental reviewer reviewed [REDACTED] panorex and clads, as submitted to CTDHP by the treating orthodontist. (CTDHP's Exhibit 3)
24. On [REDACTED] 2016, the first dental reviewer scored the severity of [REDACTED] malocclusion to equal 23 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 3)
25. The first dental reviewer noted on the [REDACTED] 2016 *Preliminary Handicapping Malocclusion Assessment Record* that [REDACTED] tooth #4 was partially erupted. (CTDHP's Exhibit 3)
26. On [REDACTED] 2016, CTDHP denied the treating orthodontist's request for prior authorization for orthodontic services for the reason that the scoring of the severity of [REDACTED] malocclusion at 23 points was less than the required 26 points, and there was not additional substantial information about the presence of deviations affecting the mouth and underlying structures, which, if left untreated, would cause irreversible damage to the teeth and underlying structures. (CTDHP's Exhibit 4)

27. The ██████████ 2016 notice stated that there is no evidence that a diagnostic evaluation had been done by a licensed child psychologist or a licensed child psychiatrist indicating that (1) the child's dental condition is related to the presence of severe mental, emotional and/or behavior problems, disturbances or dysfunctions, as defined in the current edition of the Diagnostic Statistical Manual; and (2) orthodontic treatment will significantly improve such problems, disturbances or dysfunctions. (CTDHP's Exhibit 4)
28. Geoffrey Drawbridge, D.M.D., (the "second dental reviewer") is a CTDHP orthodontic dental consultant. (CTDHP's Exhibit 6: *Preliminary Handicapping Malocclusion Assessment Record*, ██████████/16)
29. The second dental reviewer reviewed ██████████ panorex and clads, as submitted to CTDHP by the treating orthodontist. (CTDHP's Exhibit 6)
30. On ██████████ 2016, the second dental reviewer scored the severity of ██████████ malocclusion to equal 21 points on a *Preliminary Handicapping Malocclusion Assessment Record*. (CTDHP's Exhibit 6)
31. The second dental reviewer noted on the ██████████ 2016 *Preliminary Handicapping Malocclusion Assessment Record* that the diagnostic information submitted by the treating orthodontist cannot substantiate a class III skeletal pattern or functional problem. (CTDHP's Exhibit 6)
32. The second dental reviewer recommended that ██████████ case be re-evaluated with dental maturity. (CTDHP's Exhibit 6)
33. "Dental maturity" is when all of the permanent teeth are erupted and all the deciduous teeth are exfoliated (gone). (CTDHP's witness's testimony)
34. On ██████████ 2016, the Appellant brought ██████████ to see Jenny Felderman, D.M.D. at Children's Dental Care for a second opinion. (Appellant's testimony)
35. Dr. Felderman believes that ██████████ has a congenital jaw defect that if left untreated, will result in ██████████ requiring major surgery later in life; she does not specify the type of surgery. (CTDHP's Exhibit 8: Correspondence, ██████████/16)
36. The Appellant has not brought ██████████ to an oral surgeon for a consultation. (Appellant's testimony)
37. On ██████████ 2016, CTDHP notified the Appellant that the severity of ██████████ malocclusion did not meet the criteria to approve payment for orthodontic treatment. (CTDHP's Exhibit 7: Correspondence, ██████████/16)
38. On ██████████ 2016, the second dental reviewer noted that there was no information of a substantial nature presented regarding the presence of any severe deviations affecting the mouth or underlying structures such as a congenital jaw defect; the second dental

reviewer noted that a lateral cephalogram would document concern for a possible skeletal discrepancy. (CTDHP's Exhibit 9: Correspondence, ██████/16)

39. A "lateral cephalogram" is a type of x-ray that shows the profile of the patient. (CTDHP's witness's testimony)

CONCLUSIONS OF LAW

1. The Commissioner of Social Services may make such regulations as are necessary to administer the medical assistance program. Conn. Gen. Stat. § 17b-262.
2. Orthodontic services provided under the early and periodic screening, diagnosis and treatment (EPSDT) program. Orthodontic services will be paid for when: (1) provided by a qualified dentist; and (2) deemed medically necessary as described in these regulations. Conn. Agencies Regs. § 17-134d-35 (a).
3. For purposes of the administration of the medical assistance programs by the Department of Social Services, "medically necessary" and "medical necessity" mean those health services required to prevent, identify, diagnose, treat, rehabilitate or ameliorate an individual's medical condition, including mental illness, or its effects, in order to attain or maintain the individual's achievable health and independent functioning provided such services are: (1) Consistent with generally-accepted standards of medical practice that are defined as standards that are based on (A) credible scientific evidence published in peer-reviewed medical literature that is generally recognized by the relevant medical community, (B) recommendations of a physician-specialty society, (C) the views of physicians practicing in relevant clinical areas, and (D) any other relevant factors; (2) clinically appropriate in terms of type, frequency, timing, site, extent and duration and considered effective for the individual's illness, injury or disease; (3) not primarily for the convenience of the individual, the individual's health care provider or other health care providers; (4) not more costly than an alternative service or sequence of services at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the individual's illness, injury or disease; and (5) based on an assessment of the individual and his or her medical condition. Conn. Gen. Stat. § 17b-259b (a).
4. Clinical policies, medical policies, clinical criteria or any other generally accepted clinical practice guidelines used to assist in evaluating the medical necessity of a requested health service shall be used solely as guidelines and shall not be the basis for a final determination of medical necessity. Conn. Gen. Stat. § 17b-259b (b).
5. Sec. 17b-282e of the Supplement to the General Statutes provides that the Department of Social Services shall cover orthodontic services for a Medicaid recipient under twenty-one years of age when the Salzmann Handicapping Malocclusion Index indicates a correctly scored assessment for the recipient of twenty-six points or greater, subject to prior authorization requirements. If a recipient's score on the Salzmann Handicapping Malocclusion Index is less than twenty-six points, the Department of Social Services shall consider additional substantive information when determining the need for orthodontic services, including (1) documentation of the presence of other severe deviations affecting the oral facial structures; and (2) the presence of severe mental,

emotional or behavioral problems or disturbances, as defined in the most current edition of the Diagnostic and Statistical Manual of Mental Disorders, published by the American Psychiatric Association, that affects the individual's daily functioning.

6. Prior Authorization. Prior authorization is required for the comprehensive diagnostic assessment. The qualified dentist shall submit: (A) the authorization request form; (B) the completed *Preliminary Handicapping Malocclusion Assessment Record*; (C) Preliminary assessment study models of the patient's dentition; and, (D) additional supportive information about the presence of other severe deviations described in Section (e) (if necessary). The study models must clearly show the occlusal deviations and support the total point score of the preliminary assessment. If the qualified dentist receives authorization from the Department he may proceed with the diagnostic assessment. Conn. Agencies Regs. § 17-134d-35 (f)(1).
7. [REDACTED] dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not support the total point score of 26 points or more on a correctly scored *Preliminary Handicapping Malocclusion Assessment Record*.
8. [REDACTED] dental records as submitted for prior authorization by the treating orthodontist to CTDHP do not adequately establish that there is a severe deviation affecting the oral facial structures that if untreated, would cause irreversible damage to the teeth and underlying structures.
9. The Appellant did not establish that [REDACTED] had the presence of severe mental, emotional or behavioral problems or disturbances, as defined in the most current edition of the *Diagnostic and Statistical Manual of Mental Disorders*, published by the American Psychiatric Association, that affects his daily functioning.
10. Orthodontic services are not medically necessary for [REDACTED]
11. CTDHP correctly denied prior authorization for payment through the Medicaid/HUSKY program for orthodontic services for [REDACTED]

DECISION

The Appellant's appeal is DENIED.

Eva Tar-electronic signature
Eva Tar
Hearing Officer

Cc: Diane D'Ambrosio, CTDHP
Rita LaRosa, CTDHP

RIGHT TO REQUEST RECONSIDERATION

The Appellant has the right to file a written reconsideration request within 15 days of the mailing date of the decision on the grounds there was an error of fact or law, new evidence has been discovered or other good cause exists. If the request for reconsideration is granted, the Appellant will be notified within 25 days of the request date. No response within 25 days means that the request for reconsideration has been denied. The right to request a reconsideration is based on § 4-181a (a) of the Connecticut General Statutes.

Reconsideration requests should include specific grounds for the request: for example, indicate what error of fact or law, what new evidence, or what other good cause exists.

Reconsideration requests should be sent to: Department of Social Services, Director, Office of Legal Counsel, Regulations, and Administrative Hearings, 55 Farmington Avenue, Hartford, CT 06105.

RIGHT TO APPEAL

The Appellant has the right to appeal this decision to Superior Court within 45 days of the mailing of this decision, or 45 days after the agency denies a petition for reconsideration of this decision, provided that the petition for reconsideration was filed timely with the Department. The right to appeal is based on § 4-183 of the Connecticut General Statutes. To appeal, a petition must be filed at Superior Court. A copy of the petition must be served upon the Office of the Attorney General, 55 Elm Street, Hartford, CT 06106 or the Commissioner of the Department of Social Services, 55 Farmington Avenue, Hartford, CT 06105. A copy of the petition must also be served on all parties to the hearing.

The 45-day appeal period may be extended in certain instances if there is good cause. The extension request must be filed with the Commissioner of the Department of Social Services in writing no later than 90 days from the mailing of the decision. Good cause circumstances are evaluated by the Commissioner or his designee in accordance with § 17b-61 of the Connecticut General Statutes. The Agency's decision to grant an extension is final and is not subject to review or appeal.

The appeal should be filed with the clerk of the Superior Court in the Judicial District of New Britain or the Judicial District in which the Appellant resides.